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REMARKS

The indication of allowable subject matter in claims 10-12 is acknowledged and appreciated. Solely in order to expedite prosecution, claims 1-6 have been canceled without prejudice/disclaimer to the subject matter embodied thereby, rendering the rejections thereto moot. In view of the following remarks, it is respectfully submitted that all claims are in condition for allowance.

Claims 7-8 stand rejected under 35 U.S.C. § 102 as being anticipated by Miyashita et al. '828 ("Miyashita"). Claim 7 is independent. This rejection is respectfully traversed for the following reasons.

Claim 7 recites in pertinent part, "means for controlling a transition characteristic of the data signal ***according to an output of one of the first and second phase detectors***" (emphasis added). Contrary to the Examiner's assertion, Miyashita is completely silent as to a means for controlling a transition characteristic of the data signal according to an output of one of the first and second phase detectors. Indeed, again, the Examiner simply refers to portions of Miyashita (i.e., abstract; col. 2, lines 51-67; col. 3, lines 1-4) which merely disclose conventional means by which the frequency difference between the data clock and the VCO clock can be detected. The relied on portions of Miyashita do not disclose or suggest ***control*** of a transition characteristic of the data signal itself, ***let alone according to a phase detector output.***

Indeed, the Examiner never identifies where Miyashita allegedly discloses transition control ***according to an output of a phase detector***. In this regard, it should be noted that when imposing a rejection under 35 U.S.C. §102, the Examiner is required to point to "page and line" wherein an applied reference is perceived to identically disclose each feature of a claimed

invention. *In re Rijckaert*, 9 F.3d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984). As mentioned above, the Examiner does not identify any portion of Miyashita that allegedly discloses transition control ***according to an output of a phase detector***. As shown in Figure 7 of Applicants' drawings, the exemplary control signal DCONT from the output of PD 113 can be fed back to the receiver 101 (*see, e.g.*, page 12, lines 3-7 of Applicants' specification). Miyashita appears to be completely silent as to such feedback. The alleged functionality of controlling a transition characteristic of the data signal of Miyashita does not appear to be ***according to an output of one of the first and second phase detectors***. Indeed, the Examiner does not identify the specific elements which allegedly read on the claimed controlling means and phase detectors, let alone identify how any such phase detector is functionally interrelated with the controlling means in the manner set forth in claim 7. Instead, the Examiner merely alleges that the relied on portions of Miyashita allegedly disclose the functionality of the controlling means without identifying which element does so, nor does the Examiner identify how such an element allegedly has the functional interaction with a phase detector (which the Examiner also has not identified) in the manner set forth in claim 7.

In this regard, it is further noted that the Examiner, when making the pending rejection, merely identifies a broad ranging portion of Miyashita's disclosure in terms of column and line numbers for reading on the various elements recited in claim 7. However, the Examiner fails to identify the specific reference numerals in the drawings which allegedly correspond to the claimed elements. Accordingly, it appears the Examiner has relied on ***distinct and separate*** circuits disclosed by Miyashita as allegedly corresponding to a single circuit in which all of the claimed elements, and their interrelated functionalities, reside. For example, the Examiner relies

on col. 12, lines 38-67 describing a conventional clock reproduction circuit shown in Figure 6 and col. 13, lines 58-67 describing a disclosed clock reproduction circuit of Miyashita, as allegedly reading on the claimed first phase detector (*see* page 10 of outstanding Office Action). However, the portions relied on by the Examiner are directed to completely different circuits, so that the various elements of each portion can not be relied upon as if they were forming a single common circuit. Similarly, the Examiner relies on col. 10, line 49 – col. 11, line 25 Miyashita as allegedly reading on the claimed second phase detector. However, these portions of Miyashita are directed to a conventional phase detector and charge pump so as to be completely unrelated to the disclosed embodiments of Miyashita.

Furthermore, the only common portion of Miyashita which the Examiner reads on the claimed first and second phase detectors is col. 14 corresponding to Figure 7. However, Figure 7 of Miyashita appears to disclose only one phase detector 20, so it is not understood which elements of Miyashita the Examiner is reading on the claimed ***first*** and ***second*** phase detectors. Indeed, it appears that Miyashita does not disclose or suggest two phase detectors in a single embodiment. In any event, the output of none of the alleged phase detectors of Miyashita appear to be used as part of the control of a transition characteristic of the data signal (compare with Figure 7 of Applicants' drawings, in which one exemplary output DCONT is fed back to element 101). If the Examiner maintains the pending rejection, it is respectfully requested that the Examiner please identify the specific elements of Miyashita for reading on each and every one of the recited elements and their related functionality (e.g., first and second phase detector, means for controlling a transition characteristic of the data signal according to an output of one of the first and second phase detectors, etc.), so as to afford Applicants a better understanding of how to respond. As it currently stands, it is respectfully submitted that the Examiner has merely

selected various ***unconnected*** portions of Miyashita which disclose circuits which are not necessarily the same or related, so that the Examiner has not shown how Miyashita allegedly discloses each and every limitation of claim 7 in a single disclosed embodiment. Indeed, upon Applicants' review of Miyashita, it is respectfully submitted that Miyashita does not appear to disclose or suggest, *inter alia*, the ***combination*** of a means for controlling a transition characteristic of the data signal ***according to an output of one of the first and second phase detectors***.

As anticipation under 35 U.S.C. § 102 requires that each and every element of the claim be disclosed, either expressly or inherently (noting that "inherency may not be established by probabilities or possibilities", *Scaltech Inc. v. Retec/Tetra*, 178 F.3d 1378 (Fed. Cir. 1999)), in a single prior art reference, *Akzo N.V. v. U.S. Int'l Trade Commission*, 808 F.2d 1471 (Fed. Cir. 1986), based on the forgoing, it is submitted that Miyashita does not anticipate claim 7, nor any claim dependent thereon.

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as claim 7 is patentable for the reasons set forth above, it is respectfully submitted that all claims dependent thereon are also patentable. In addition, it is respectfully submitted that the dependent claims are patentable based on their own merits by adding novel and non-obvious features to the combination.

Based on the foregoing, it is respectfully submitted that all pending claims are patentable over the cited prior art. Accordingly, it is respectfully requested that the rejection under 35 U.S.C. § 102 be withdrawn.

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CONCLUSION

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication for which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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